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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,507	11/14/2003	Robert P. Breazeale JR.	S-830	9944
2071	7590	12/09/2004	EXAMINER	
SIEBERTH & PATTY 2924 BRAKLEY DRIVE SUITE A 1 BATON ROUGE, LA 70816			PAYER, HWEI SIU CHOU	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/713,507	Applicant(s) BREAZEALE, ROBERT P.	
	Examiner Hwei-Siu C. Payer	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)):
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Detailed Action

Drawings Objection

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the battery (cited in claims 4, 9, 12 and 16), the plurality of blades (cited in claims 8, 11 and 19), the storage case (cited in claims 15 and 18), the battery charger (cited in claim 17) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claims Rejection - 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 5, 6, 10, 13 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Keesling (U.S. Patent No. 2,783,790).

Keesling shows the claimed invention. Specifically, the resilient flexible rubber guard (56) has an aperture (57) for receiving the blade (47) of a reciprocating saw. At least a portion of the guard (56) flexes with the movement of the saw blade (47) to facilitate the maintenance of contact between the blade and the guard in order to inhibit entry of particles into the housing of the saw when in use.

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3, 4, 7-9, 11, 12, and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keesling (U.S. Patent No. 2,783,790) in view of Kahle (U.S. Patent No. 6,341,425).

Keesling's apparatus as set forth shows all the claimed structure except the saw is not powered by a battery, and it lacks a battery charger and a storage case. Also, the saw has a single blade (47) rather than a plurality of blades.

Kahle shows a reciprocating saw comprising dual blades (42) and powered by a battery (36), a battery charger (34) for charging the battery, and a storage case (18) for storing purpose.

It would have been obvious to one skilled in the art to modify Keesling by providing the saw with an additional blade to facilitate a more efficient cutting operation as taught by Kahle. Also, it would have been obvious to one skilled in the art to power Keesling's saw by a battery and to provide Keesling with a battery charger and a storage case so that the saw is self-contained and more convenient to use, and the battery can be recharged and reused, and all the components stated above can be stored in the storage case when not in use so that it is user-friendly as taught by Kahle.

It is noted claims 3 and 7 call for the material the flexible guard (56) is made of being "ethylene propylene diene monomer".

To select a well known flexible material such as ethylene propylene diene monomer for Keesling's resilient guard (56) would have been obvious to one having ordinary skill in the art, since it has been held to be within the general skill of a worker in

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the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Prior Art Citations

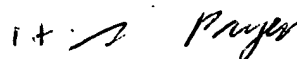
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Walker, Taggart, Knab, Freeman et al., Raper, Jr. et al., Robinson, Cousins et al., Bauer, Truax and Ruston, Sr. are cited as art of interest.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 571-273-4511 for proposed amendments.

H Payer
December 7, 2004



Hwei-Siu Payer
Primary Examiner